

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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Rodney Smith et als,

Plaintiff,

-against-

The City of New York et als,

Defendant.

15-CV-3859 (PKC)(CLP)

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**DECLARATION OF ROBERT MARINELLI IN SUPPORT OF
PLAINTIFF'S MOTION FOR ATTORNEYS' FEES AND COSTS**

ROBERT MARINELLI declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, as follows:

1. I operate a small law firm in Downtown Manhattan.
2. I submit this declaration in support of plaintiff's motion for legal fees, costs and expenses, pursuant to 42 U.S.C. §1988.
3. I worked on this matter with Co-Counsel, Raoul Zaltzberg.
4. As discussed herein, plaintiff is requesting \$78,249.80.
5. This figure is based on the undersigned having expended more than 62 hours up to the point of the entry of judgment, and 9 hours preparing this motion for fees at an hourly rate of \$375 for a total of \$26,475.
6. Mr. Zaltzberg having billed 104 hours at a rate of \$300 resulting in a fee of \$31,170 for worked performed on tasks common to all moving plaintiffs.
7. Attached as Exhibit 1 are my contemporaneous time records.
8. Attached as Exhibit 2 are Raoul Zaltzberg's contemporaneous time records for tasks benefitting all plaintiffs.
9. Attached as Exhibits 3 through 16 are Mr. Zaltzberg's time records for the individual plaintiffs.

10. Additionally Mr. Zaltzberg billed the following for individual plaintiffs, totaling \$20,604.80:¹ Plaintiffs are numbered below to correspond to their time sheet exhibit number.

- 3). Leon Wilson - \$3,330
- 4). Brandon Villella - \$4,910
- 5). Eric Johnson - \$375
- 6). Marquailes Gray - \$930.60
- 7). Jeffrey Corolian - \$375
- 8). Teddy Spann - \$375
- 9). Daquan Brown – \$1,524.50
- 10). Tyshawn Kennedy - \$375
- 11). Michael Rock – \$1,267.20
- 12). Deshawn Paige - \$1,188
- 13). Zantwan Tucker - \$2,534.40
- 14). Natoine Marshall - \$1,560
- 15). Steve Mitchell - \$1,485
- 16). Francisco Bell - 375

¹ The details concerning the hours and billing of the individual plaintiffs are attached as exhibits 3 thru 16.

11. Mr. Zaltzberg's legal fees for the individual plaintiffs totals \$20,604.80, Mr. Zaltzberg's aggregate fees are \$31,170 plus \$20,604.80, totaling \$51,774.80.

Counsel's Background and Rate

12. I attended Brooklyn Law School, graduating in May 1992. I was admitted to practice law in the State of New York in 1993 and Southern and Eastern Districts in 2001. I have an extensive background in the area of civil rights law.
13. From the years 1998 through 2008, I represented indigent clients in various New York State criminal and family courts. Initially as a lawyer with the Legal Aid Society of Orange County, and thereafter as part of a small partnership with Richard Cardinale and Michael Hueston.² During this partnership I actively participated in scores of civil rights matters beginning in 2001.
14. I have tried over 20 criminal cases to verdict and have perfected scores of appeals to New York State Appellate Courts.
15. Since starting my own practice in 2008 I have prosecuted hundreds of §1983 cases, in the Eastern District and Southern Districts of New York. I have tried eight civil rights cases in Federal Court and one in State Court to verdict.
16. Though Mr. Zaltzberg, and I worked on the matter, we did not perform unnecessary or duplicative tasks, such as having multiple attorneys attend court conferences, participate in phone calls with defense counsel or defend depositions.

² Mr. Hueston left the partnership in 2007.

17. Though there were emails and phone calls between co-counsels, this is not an indication of duplicative work. It is normal for attorneys working on in tandem to confer about case strategy and discovery matters.

The Requested Hourly Rate of \$375 Is Reasonable

18. On behalf of the plaintiff, I am seeking to recover attorney's fees at the hourly rate of \$375 for my work in this matter. In making this request, I have assessed the rates of other attorneys like myself who have been practicing a similar period of time and who have attained a similar level of expertise.
19. I have handled hundreds of cases involving claims of police misconduct that ended in favorable settlements for my clients. As discussed in the accompanying memorandum of law, an hourly rate of \$375 is reasonable for an attorney with over twenty years of experience and eight years of specialized litigation in police misconduct matters.³
20. The fees and costs set forth herein do not include any further work which may be necessary on this motion (such as a Reply to the defendants' Opposition), or work to be performed by me in response to the Court's actions with respect to this fee application, including any appeal the parties may take. If warranted, plaintiff will supplement his request for fees and costs to reflect all work done on this matter from this point forward.

Conclusion

21. In sum, all of the time I expended was reasonable and necessary to properly represent plaintiff. On plaintiff's behalf, I submit that she should be awarded costs and attorneys'

³ This is in addition to my active participation in scores of police misconduct cases while in partnership with Richard Cardinale and Michael Hueston.

fees totaling \$129, 688.75 for work done prior to the entry of a final judgment and
8,882.50 for the work done on the instant motion, for a total of \$138,571.25.

Dated: New York, New York
September 11, 2018

/s
Robert Marinelli